

UNITED STATES DISTRICT COURT

for the

District of Montana

United States of America

v.

Rocky Rollin Bettin

Case No: CR-17-83-BLG-SPW

USM No: 16864-046

Date of Original Judgment: 02/15/2018

Date of Previous Amended Judgment: 02/20/2018

(Use Date of Last Amended Judgment if Any)

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment (*as reflected in the last judgment issued*) of _____ months **is reduced to** _____ .
(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Defendant seeks a sentence reduction under the retroactive application to the criminal history rules in Part A of Amendment 821 to the United States Sentencing Guidelines. (See Doc. 61.) Defendant is clearly ineligible.

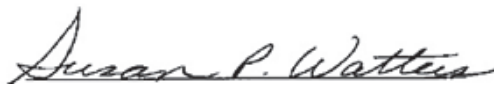
Part A limits the overall criminal history impact of "status points" for offenders who committed the instant offense while under a criminal justice sentence. See U.S.S.G. Ret. App. A & B, Sub. 1 Amendment 821 "Reasons for Amendment" (Nov. 1, 2023). "A defendant is ineligible for a sentence reduction if the relevant amendment does not have the effect of lowering the defendant's applicable guideline range." *United States v. Mercado-Moreno*, 869 F.3d 942, 949 (9th Cir. 2017); USSG §1B1.10(a)(2)(B) (2023).

Here, Defendant asks for consideration under Part A. Defendant received two "status points" for committing the instant offense while under a criminal justice sentence. (PSR ¶ 54.) This elevated his total criminal history score from a nine to 11, giving him a criminal history category of V. (PSR ¶¶ 53–55.) Although he is eligible for a one-point reduction to his total criminal history score under Amendment 821, reducing Defendant's criminal history score from an 11 to a 10 would not lower his criminal history category or the applicable guideline range. Defendant also received a below-guideline sentence from the Court; he was sentenced to 180 months and the guideline range was 210 to 262 months. (Doc. 41.) Because Defendant is clearly ineligible for a sentence reduction under the retroactive application of Amendment 821, his motion is denied.

Except as otherwise provided, all provisions of the judgment dated 02/20/2018 shall remain in effect.

IT IS SO ORDERED.

Order Date: 12/21/2023


Judge's signature

Effective Date: _____
(if different from order date)

Printed name and title

This page contains information that should not be filed in court unless under seal.
(Not for Public Disclosure)

Rocky Rollin Bettin

DEFENDANT: _____

CASE NUMBER: CR-17-83-BLG-SPW

DISTRICT: District of Montana

I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)

Previous Total Offense Level: _____ Amended Total Offense Level: _____

Criminal History Category: _____ Criminal History Category: _____

Previous Guideline Range: _____ to _____ months Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.

III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (*See Chavez-Meza v. United States, 138 S.Ct. 1959 (2018)*)